

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04CV277

F. BARRON STONE,

Plaintiff,

vs.

DUKE ENERGY CORPORATION,
DUKE ENERGY BUSINESS SERVICES
(DEBS),

Defendants.

ORDER

This matter is before the court upon its own motion. On August 8 and August 15, 2006, Plaintiff filed Notices of Partial Dismissal pursuant to Rule 41(a) dismissing Counts I and II of his Restated Complaint. The Notices did not state whether the dismissal was with or without prejudice. On August 24, Defendants made a motion to dismiss these counts *with prejudice*. The court entered an Order on August 24 notifying the Plaintiff that the court intends to grant the motion to dismiss Counts I and II with prejudice unless Plaintiff withdrew his Notices of Partial Dismissal within 10 days. Plaintiff did not withdraw his notices.

IT IS THEREFORE ORDERED that Counts I and II of Plaintiff's Restated Complaint are hereby dismissed with prejudice,

Signed: October 18, 2006



Graham C. Mullen
United States District Judge

